

To: Outside Counsel Ex. 6 - Personal Privacy
Cc:
From: Fugh, Justina
Sent: Thur 12/22/2016 8:04:49 PM
Subject: an example of an impartiality determination
[New Jersey impartiality determination for release.pdf](#)

Hi there,

Earlier today Outside Counsel Ex. 6 - Personal Privacy noted that the State of Oklahoma was included in Mr. Pruitt's list of identified entities for which a recusal would be necessary. Federal ethics officials consider that employees have a "covered relationship" with their former employers pursuant to 5 C.F.R. § 2635.502(b)(1)(iv). But I pointed out that, by applying the factors set forth at 5 C.F.R. § 2635.502(d)(1) – (6), EPA ethics officials could issue an impartiality determination that would allow the potential Administrator to nevertheless participate in specific party matters that involved Oklahoma. In fact, we did exactly that for a prior Administrator-nominee, Lisa Jackson, who was employed by the State of New Jersey prior to her nomination to be the EPA Administrator by then-President elect Barack Obama. Please note, however, that Ms. Jackson was not a lawyer, so we did not have to consider any rules of professional responsibility in addition to her federal ethics obligations.

For your reference, I am sending you a pdf of the determination that EPA wrote for Ms. Jackson prior to her confirmation. I have redacted her mailing address as that is not releasable under the Freedom of Information Act.

Cheers,
Justina

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